

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

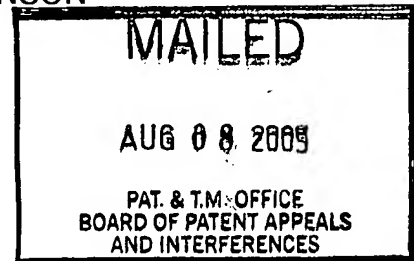
UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte ANGELA MARCELA WILKINSON

Appeal No. 2005-1493
Application No. 10/055,358

ON BRIEF



Before GARRIS, OWENS, and JEFFREY T. SMITH, Administrative Patent Judges.
GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal which involves claims 1, 2, 4, 5 and 9-20.

The subject matter on appeal relates to a placemat having a major portion with a coaster extension integrally formed with and projecting from a peripheral edge of the major portion. This appealed subject matter is adequately illustrated by independent claims 1 and 20 which read as follows:

1. A placemat, comprising:

a placemat body including:

a major portion sized to completely underlie a place setting including a plate and silverware, the major portion having a height of approximately 12-14 inches and a width of approximately 18-24 inches; and

a coaster extension integrally formed with and projecting from a peripheral edge of the major portion and sized to completely underlie a beverage container, the coaster extension having a width of approximately 3-4 inches,

wherein the placemat body is formed from a material selected from cloth, laminate, cork, rubber, neoprene and other plastics.

20. A reversible placemat, comprising:

a body adapted for use regardless of whether the placemat rests on either a first surface or a second surface opposite the first surface, the body including:

a first portion having a first shape and sized to completely underlie a place setting, the place setting consisting of a plate and utensils, the first portion having a height of approximately 12-14 inches and a width of approximately 18-24 inches; and

a second portion having a second shape, projecting from a peripheral edge of the first portion and sized to completely underlie a beverage container, the coaster extension having a width of approximately 3-4 inches,

wherein the second portion projects from an upper right peripheral edge of the first portion when the placemat rests on the first surface and from an upper left peripheral edge of the first portion when the placemat rests on the second surface, and

wherein the body is formed from a material selected from cloth, laminate, cork, rubber, neoprene and other plastics.

The prior art set forth below is relied upon by the examiner as evidence of obviousness:

Krass
Kaye

D 139,954
D 181,058

Oct. 9, 1944
Sep. 24, 1957

Kamel et al. (Kamel)

D 266,045

Sep. 7, 1982

The admitted prior art described at lines 11-15 on page 8 of the subject specification.

Claims 1, 2, 4, 5, 9-14 and 16 -20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaye in view of the admitted prior art.

Claims 1, 2, 4, 5, 9-15 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamel in view of the admitted prior art.

Finally, claims 1, 2, 4, 5, 10, 12, 14 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Krass in view of the admitted prior art.

We will focus on independent claims 1 and 20 as representative of the claims involved in each of the above noted rejections because these independent claims contain all of the limitations argued by the appellant in her brief and reply brief.

We refer to the brief and reply brief as well as to the answer and the Office Action mailed May 14, 2004 for a thorough discussion of the opposing viewpoints expressed by the appellant and by the examiner concerning these rejections.

OPINION

For the reasons set forth in the answer and below, we will sustain each of the rejections advanced on this appeal.

All of the appealed claims distinguish from each of the applied references by requiring particular dimensions and materials of construction for the placemat body.

We agree with the examiner, however, that it would have been obvious to form the placemat body disclosed in each of the applied references from a construction material such as cloth, laminate, cork, rubber, neoprene and other plastics in view of the admitted prior art which acknowledges that such materials have been used in the prior art for forming conventional placemats. Concerning this matter, the appellant argues that “the Office Action merely asserts without any support that such materials are well-known in the relevant art” and that “[s]uch speculation is entirely unsupported by the record” (brief, page 6). This argument is unpersuasive because it is factually erroneous. The appellant’s own admitted prior art described on specification page 8 acknowledges that such materials are known in the prior art for placemat construction purposes.

We also agree with the examiner’s conclusion that it would have been obvious for one having ordinary skill in this art to establish workable ranges for the placemat dimensions. This is because an artisan would have recognized such dimensions as result-effective parameters. Thus, for example, it would have been obvious for the artisan to develop dimensions for the coaster and tray combination of Krass whereby the resulting dimensional values would effectuate the coaster function and tray function of patentee’s combination.

The appellant argues that “none of the cited references provide any basis for believing that the recited dimensional limitations are satisfied” (brief, page 7). While

these references contain no express teaching of appropriate placemat dimensions, the artisan would have appreciated that such dimensions are result-effective parameters as explained above. In this regard, it is well established that, generally speaking, it would have been obvious for an artisan to develop workable ranges for art-recognized, result-effective parameters. See In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37; (Fed. Cir. 1990); In re Boesch, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980); In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

With further regard to the issue of dimensions, the appellant urges that, “even accepting that argument [i.e., the examiner’s obviousness conclusion regarding placemat dimensions] with respect to the body or major portion, neither of Kaye or [sic, nor] Kamel . . . teach or suggest [sic] that the “extension” (the cat’s head in Kaye and the “bread,” “butter” and “silver” regions in Kamel . . .) are [sic, is] intended to be used as a coaster” and that, “[a]ccordingly, the inference regarding the size of such regions is not supported by the cited references” (brief, page 5). It is true that these “extensions” of the Kaye and Kamel placemats are not disclosed by these references as performing a coaster function. Nevertheless, the placemats depicted in these references show these “extensions” to be proportionally smaller to the major portion of the placemat bodies by a degree which corresponds to the proportions encompassed by the appellant’s claimed dimension ranges. Therefore, the above discussed determination of workable dimensions for the major portion of the Kaye and Kamel

placemats not only would have yielded major portion dimensions of the type here claimed but also would have yielded dimensional values for the “extensions” of the Kaye and Kamel placemats which are within the here claimed range (i.e., in light of the aforementioned correspondence between the “extension” to “major portion” proportions encompassed by the appealed claims and shown by the Kaye and Kamel references).

Finally, it is the appellant's position that the applied references contain no teaching or suggestion of a placemat which is “reversible” as required by certain of the appealed claims such as independent claim 20. Notwithstanding the absence of an expressed disclosure, the placemats of Kaye and Kamel inherently possess the “reversible” functionality required by these claims. That is, it is reasonable to consider the placemats disclosed in these references to have front and back surfaces and therefore to be capable of placement with either the front or back surface facing upwardly and thus reversible. In this regard, we emphasize that it is appropriate to consider the “reversible” function under consideration to be satisfied by the Kaye and Kamel placemats on the grounds that they possess the structural capability of performing this function even though the references do not expressly address the “reversible” feature claimed by the appellant. See In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997).

In light of the foregoing, it is our ultimate determination that the prior art evidence adduced by the examiner establishes a prima facie case of obviousness

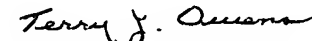
which the appellant has failed to successfully rebut with argument or evidence of non-obviousness. We hereby sustain, therefore, each of the § 103 rejections before us on this appeal. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

The decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


BRADLEY R. GARRIS
Administrative Patent Judge


TERRY J. OWENS
Administrative Patent Judge


JEFFREY T. SMITH
Administrative Patent Judge

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